



ATSR

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re: Application of  
Troy M. Just

Serial No.: 10/668,785

Filed: September 23, 2003

Title: PRE-FILL APPLICATOR

Group No.: 3761

BEFORE THE BOARD  
OF PATENT APPEALS  
AND INTERFERENCES

Appeal No. \_\_\_\_\_

APPELLANT'S REPLY TO EXAMINER'S ANSWER

Commissioner for Patents  
Alexandria, VA 22313

Dear Sir:

In the Examiner's response to Appellant's argument set forth in the Appeal Brief, the Examiner stated that there is absolutely nothing taught by Ferrer that holds the rod 31 in the opening 45 such that it cannot be detachably connected at a later time, e.g., after dispensation of medication. Even if the Examiner's statement is true, there is nothing in Ferrer which teaches that the piston may remain in the barrel if separated from the plunger to prevent reuse of the dispenser. The Examiner also acknowledged that it had been previously stated in the Office Action mailed May 19, 2006, that "Ferrer teaches that piston 40 and plunger 30 are assembled together and are constructed in a complementary manner such that plunger 30 having rib 34 and

1 groove 35 engaged piston 40 via orifice 45 to lock the piston 40 in place, forming an  
effectively unitary impeller structure." In the Examiner's Answer, the Examiner  
attempts to clarify the statements in the Office Action and stated that the rod is not  
locked in place such that it is not ever detachably connected but merely that the rod  
5 is held in place while the rod-piston structure dispenses medication, to be detachable  
at a later time from the piston 40.

The Examiner believes that the limitation that the piston 40 remains in the  
barrel structure 20 after the plunger detaches flows necessarily from the teachings of  
10 Ferrer that the rod is detachably connected at some subsequent point in time and the  
teaching that the piston 40 is actually larger in diameter than the barrel but is flexible.

Again, Appellant points out that there is absolutely no suggestion or teaching  
whatsoever in Ferrer that the first end of the plunger will disconnect from the piston  
upon movement of the plunger away from the piston so that the piston remains in the  
15 barrel thereby ensuring that the applicator may not be reused as required by claims  
1-3 and 8, 10 and 11 of Appellant's application. Further, there is nothing even  
remotely suggested in Ferrer that the piston is constructed so as to destruct if an  
attempt is made to manually move the piston towards the open end of the barrel by  
20 applying force against the first end thereof, thereby further ensuring that the  
applicator may not be reused, as set forth in claims 3 and 11.

The Examiner has been unable to find a single reference wherein a means is  
provided for preventing the pre-fill applicator of this invention from being reused  
25 which is a very serious consideration in modern days. After the medication is

1 dispensed from the applicator, if the user attempts to pull the piston back from its  
discharge position so that the applicator may be refilled, the plunger separates from  
the piston leaving the piston in the barrel of the applicator. If the user attempts to  
push the piston outwardly from the discharge end of the barrel, the plunger pierces  
5 through the piston which destructs the piston so that it may be not be reused. In view  
of the foregoing and in view of Appellant's Appeal Brief, it is respectfully requested  
that the Examiner's rejection of the claims be reversed.

Respectfully submitted,



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CERTIFICATE OF MAILING

I hereby certify that the original of APPELLANT'S REPLY TO EXAMINER'S  
ANSWER for TROY M. JUST, Serial No. 10/668,785, was mailed by first class mail,  
postage prepaid, to the Mail Stop Appeal Briefs-Patent, Commissioner for Patents,  
20 P.O. Box 1450, Alexandria, VA 22313-1450 on this 27th day of August, 2007.



DENNIS L. THOMTE